IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 6329 of 2005

Between:

Smt.V.Sarojana, w/o Balachandram,
R/o 10-148/10/J TO L, Ganesh Nagar (Vinayaka Nagar) Balanagar (M), Ranga Reddy District.

..... PETITIONER

AND

The Commissioner, Kukatpally Municipality, Kukatpally, Ranga Reddy District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of writ of mandamus declaring the action of the respondent in issuing impugned proceedings in CO No.TPS III/111/2004-05, dt.21-3-2005 for demolition of petitioner's residential house bearing D.No.10-148/10/J TO L on plot No.51 part and 52 part in Sy.No.54 and 56 admeasuring 153 sq.yards situated at Ganesh Nagar formerly known as Vinayaka Nagar, Balanagar Mandal, Ranga Reddy District as illegal, unjust, arbitrary and malafide besides being violative of provisions of A.P.Municipalities Act 1965 and A P Urban Areas (Development) Act 1975 and to pass such other orders or order as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner :MR. K.SANKARAYYA

Counsel for the Respondent : MR.POLISETTI RADHAKRISHNA (SC FOR MPL)

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.6329 OF 2005

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ORDER :

This writ petition is filed aggrieved by the order dated 21-03-2005 passed by the respondent under Section 56(1) of the Andhra Pradesh Urban Areas (Development) Act, 1975, thereby directing the petitioner to remove the unauthorised constructions alleged to have been made by the petitioner in Sy.Nos.54, 56 and 57 of Ganesh Nagar of Bala Nagar (v) area of Kukatpally Municipality, R.R. District. In the impugned order, it is stated that though a show cause notice was served on the petitioner on 15-03-2005, the petitioner failed to submit her explanation and therefore the impugned order has been passed on the material available on record. However, the petitioner states that on receipt of show-cause notice, she has submitted an explanation on 16-03-2005 itself, but the respondent failed to consider the same. A copy of the explanation dated 16-03-2005 filed at page 16 of the material papers along with the writ petition bears the acknowledgment which shows that the said explanation was received in the office of the respondent on 16-03-2005 itself.

In the circumstances, I am of the opinion that the respondent ought to have passed appropriate orders only after taking into consideration the explanation offered by the petitioner. Since no such procedure was followed, the impugned order which is not

in conformity with the principles of natural justice is liable to be set aside.

Accordingly, the impugned order is set aside and the Writ Petition is disposed of leaving it open to the respondents to consider the explanation dated 16-03-2005 which is available at page 16 of the material papers filed along with writ petition and to pass appropriate orders in accordance with law. Till such orders are passed and a copy of the same is communicated to the petitioner, the respondent shall not interfere with the possession of the petitioner in respect of the property in question. No costs.

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24th March, 2005.

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To

1. The Commissioner, Kukatpally Municipality, Kukatpally, Ranga Reddy District.

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